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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,626	12/27/2001	Gavin William Kele	A-7739.CIP	8014
20741	7590	01/11/2005	EXAMINER	
HOFFMAN WASSON & GITLER, P.C. CRYSTAL CENTER 2, SUITE 522 2461 SOUTH CLARK STREET ARLINGTON, VA 22202-3843			MILLER, WILLIAM L	
		ART UNIT		PAPER NUMBER
		3677		

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/026,626	KELE, GAVIN WILLIAM
	Examiner William L. Miller	Art Unit 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 7-12, 14 and 15 is/are allowed.
- 6) Claim(s) 3, 4 and 13 is/are rejected.
- 7) Claim(s) 5 and 6 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 3, 4, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skaalen et al. (US#4599030) in view of Mayle (US#4740131).
3. Regarding claims 3, 4, and 13, Skaalen discloses a vehicle 10 for raising and transporting a structure, the vehicle comprising: a main frame 31,32,34-37 supported on ground engaging elements 16-19 which locate astride the structure when the vehicle is positioned over the structure; an attachment frame 14 for connection to the structure, the attachment frame located within the main frame; and a powered lifting mechanism 12 for raising the attachment frame relative to the main frame.
4. Skaalen discloses the attachment frame has a plurality of connectors 42 thereon which are fixed in the vertical direction with respect to the attachment frame as opposed to the attachment frame having winches thereon with each winch having a winch line with a hook at the free end thereof. However, utilizing a winch having a winch line with a hook at the free end thereof is a well known attaching/lifting device in the article handling art as evidenced by Mayle. Mayle discloses a vehicle for raising and transporting a structure comprising: a main frame 13-17; an attachment frame 12 located within the main frame wherein the attachment frame is movable relative thereto; the attachment frame includes a winch 47 thereon having a winch line 49,50

with a hook at the free end thereof 52,56. The winch apparatus enabling vertical translation of the structure with respect to the attachment frame. Therefore, as taught by Mayle, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Skaalen by replacing the connectors with winches having winch lines and hooks at the free end thereof thereby enhancing the vertical translation (raising and lowering) capabilities of the vehicle.

5. Although Skaalen fails to disclose the vehicle being used in conjunction with a crypt lid, the crypt lid is not being positively claimed and therefore represents the intended use of the vehicle. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, the vehicle is capable of being used in conjunction with a crypt lid.

6. Regarding claim 13, the ground engaging elements are wheels, and the vehicle is being viewed and labeled as a “trailer” as a trailer is defined as “a vehicle for transporting something” (Merriam-Webster’s Collegiate Dictionary, Tenth Addition).

Allowable Subject Matter

7. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 7-12, 14, and 15 are allowed.

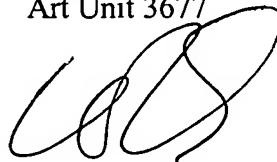
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
Art Unit 3677



WLM
01-06-2005